

ALSTON FLETCHER BRANCH HARRIS

Plaintiff,

vs.

CLEVELAND F. RIDDLE, et al.,

Defendants.

In the motion before the Court, dated June 30, 2019 and filed on July 5, 2019, the Plaintiff seeks an order from the Court compelling Defendants to answer Plaintiff's discovery request. Plaintiff states that he sent the twenty (20) interrogatories attached to his motion to Defendants on March 7, 2019 "but [has] not yet received [*sic*] an answer." [Doc. 31]. The document with Plaintiff's interrogatories is unlabeled and has no case caption and no certificate of service attached. At the bottom of the second page, it is dated and signed in black ink, whereas the remainder of the unlabeled document is written in blue ink. [Id. at 2-3]. Further, Plaintiff failed to comply with Rule 37(a)(1) of the Federal Rules of Civil Procedure, Local Rule 7.1(b), and the PTOCMP in that Plaintiff did not include a certification that he consulted with Defendants' counsel

about the allegedly outstanding discovery request before filing his motion to compel. [Doc. 23 at 4].

In response to Plaintiff's motion to compel, Defendants aver that they have no copy of Plaintiff's interrogatories in their computer or paper files. Defendants also argue that timely consultation by the Plaintiff would have revealed that Defendants did not have a copy of Plaintiff's interrogatories in their files. [Doc. 31 at 2].

The Court, in its discretion, will deny Plaintiff's motion. If Plaintiff served Defendants the discovery request on March 7, 2019, Defendants responses would have been due in ample time to consult with Defendants before the close of discovery in this case on April 25, 2019. Plaintiff, instead, waited nearly three months after the responses would have been due before filing a motion to compel, which was filed only four days before the dispositive motions deadline.

IT IS, THEREFORE, ORDERED that:

Plaintiff's motion to compel [Doc. 31] is **DENIED**.

Signed: July 29, 2019

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

